

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

V

STANLEY OMARRIE GILBERT,

Defendant-Appellant.

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UNPUBLISHED

September 20, 2002

No. 232429

Kalamazoo Circuit Court

LC No. 00-000576-FH

Before: Whitbeck, C.J., and Sawyer, and Kelly, JJ.

PER CURIAM.

Defendant appeals as of right his conviction of larceny from a person, MCL 750.357, entered after a bench trial. We affirm.

Complainant testified that she was employed as a night auditor at a hotel. She worked alone on the overnight shift. She stated that on the night in question a man entered the lobby on two occasions and spoke with her for several minutes. On the second occasion the man stated that he intended to rob the hotel. Complainant indicated she gave the man cash from the cash register and the safe, and he then fled the scene. Complainant testified that she saw the man's face clearly. She identified defendant as the perpetrator.

Detective Pineda testified that initially complainant believed she might have attended school with the perpetrator. He obtained photographs of several students that fit the perpetrator's description, and showed them to complainant. Complainant stated that one of the persons looked like the perpetrator, but she did not believe it was the same person. Pineda stated none of the photographs was of defendant. He indicated that subsequently, complainant telephoned him and reported she saw defendant's photograph on television, and she was positive that defendant was the person who took money from her. Defendant denied he was at the hotel on the night of the incident and that he took money from complainant. He maintained he was working when the incident occurred.

The trial court found defendant guilty of larceny from a person. The court found the undisputed evidence showed that a person approached complainant in the hotel lobby, took cash belonging to the hotel, and fled the premises. The court noted that complainant had ample time to observe the perpetrator's face, and her identification of defendant was unequivocal. The court found complainant's testimony to be credible, rejected defendant's testimony, and found as fact that defendant was the perpetrator.

When reviewing a challenge to the sufficiency of the evidence in a bench trial, we view the evidence presented in a light most favorable to the prosecution, and determine whether a rational trier of fact could find that the essential elements of the crime were proven beyond a reasonable doubt. The trier of fact may make reasonable inferences from evidence in the record, but may not make inferences completely unsupported by any direct or circumstantial evidence. *People v Petrella*, 424 Mich 221, 268-270, 275; 380 NW2d 11 (1985); *People v Vaughn*, 186 Mich App 376, 379-380; 465 NW2d 365 (1990).

In a bench trial, the court must make findings of fact and state separately its conclusions of law. MCR 6.403. Findings are sufficient if it appears that the court was aware of the issues and correctly applied the law. *People v Smith*, 211 Mich App 233, 235; 535 NW2d 248 (1995). We review a trial court's findings of fact for clear error. MCR 2.613(C); *People v Hermiz*, 235 Mich App 248, 255; 597 NW2d 218 (1999), *aff'd* by equal division 462 Mich 71; 611 NW2d 783 (2000).

The elements of larceny from a person are: (1) that the defendant took someone else's property; (2) that the property was taken without consent; (3) that there was some movement of the property; (4) that the property was taken from the complainant's area of control or immediate presence; and (5) that at the time the property was taken the defendant intended to deprive the owner of it permanently. CJI2d 23.3.

Defendant argues that insufficient evidence was produced to support his conviction. He asserts that complainant's earlier mistaken belief that she might have attended school with him undermined her subsequent identification, as did her viewing of a suggestive television broadcast, and concludes the trial court clearly erred in finding that he was the perpetrator. We disagree and affirm defendant's conviction. Defendant challenges only the trial court's finding that he was the perpetrator of the incident. Complainant testified the perpetrator entered the lobby on two occasions and spoke with her for several minutes on each occasion. She had a clear view of the person's face. Complainant testified unequivocally that defendant was the person who took cash from the hotel when she was on duty.

The trial court, sitting as the finder of fact, was entitled to accept complainant's testimony that defendant was the perpetrator and to reject defendant's testimony that he was working at the time the incident occurred. Complainant's testimony, and the reasonable inferences drawn therefrom, established the elements of larceny from a person. *People v Dupie*, 395 Mich 483, 490-491; 236 NW2d 494 (1975); *Vaughn, supra*. The trial court's finding that defendant was the perpetrator was not clearly erroneous. MCR 2.613(C). The evidence, viewed in a light most favorable to the prosecution, was sufficient to support defendant's conviction. *Petrella, supra*.

Affirmed.

/s/ William C. Whitbeck  
/s/ David H. Sawyer  
/s/ Kirsten Frank Kelly